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**UTAH LABOR COMMISSION**

**ERIC R. LEE,**

**Petitioner,**

**vs.**

**CONTRACTORS HEATING  
AND COOLING and WORKERS  
COMPENSATION FUND,**

**Respondents.**

**ORDER MODIFYING  
ALJ'S AWARD**

**Case No. 04-0754**

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Contractors Heating and Cooling and its insurance carrier, Workers Compensation Fund, (referred to jointly as "Contractors") ask the Utah Labor Commission to modify Administrative Law Judge La Jeunesse's award of benefits to Eric R. Lee under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated § 63G-4-301 and § 34A-2-801(3).

**BACKGROUND AND ISSUE PRESENTED**

Mr. Lee claims workers' compensation benefits from Contractors for a work accident that occurred on February 6, 2003, causing injury to his back. Contractors previously paid Mr. Lee permanent partial disability compensation for a 13% impairment. Judge La Jeunesse awarded benefits, including permanent partial disability compensation for an 18% impairment.

In its motion for review, Contractors requests that the order for permanent partial disability be modified to clarify that it would be subject to offset for payments Contractors had already paid.

**DISCUSSION AND CONCLUSION OF LAW**

Under Section 34A-2-401 of the Utah Workers' Compensation Act, injured workers are only entitled to "compensation for loss sustained on account of the injury or death. . . ." The parties agree that Contractors already paid Mr. Lee permanent partial disability compensation for a 13% impairment. Therefore the Commission shall modify Judge La Jeunesse's order to provide credit for permanent partial disability compensation that Contractors has paid for Mr. Lee's injury.

**ORDER**

The Commission modifies Judge La Jeunesse's order for permanent partial disability compensation as follows:

**ORDER MODIFYING ALJ'S AWARD**  
**ERIC R. LEE**  
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IT IS FURTHER ORDERED that Contractors Heating and Cooling and/or Workers Compensation Fund shall pay Eric R. Lee permanent partial disability compensation for an eighteen percent (18%) impairment rating at the rate of \$328.00 per week for a total of \$18,420.48, under Utah Code §34A-2-412, subject to offset for amounts previously paid. That amount is accrued, due and payable in a lump sum, plus interest at eight percent (8%) per annum, under Utah Code §34A-2-420 (3) and Utah Administrative Code, Rule 612-1-5.

It is so ordered.

Dated this 24<sup>th</sup> day of December, 2008.

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Sherrie Hayashi  
Utah Labor Commissioner

**NOTICE OF APPEAL RIGHTS**

Any party may ask the Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Labor Commission within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.